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SENATE BILL 380

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Shannon Robinson

AN ACT

RELATING TO INVESTMENT OF THE SEVERANCE TAX PERMANENT FUND;
CHANGING THE AMOUNT AUTHORIZED FOR INVESTMENT IN FILMS PRODUCED
IN NEW MEXICO.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-27-5.26 NMSA 1978 (being Laws 2000
(2nd S.S.), Chapter 6, Section 2, as amended) is amended to
read:

"7-27-5.26. INVESTMENT IN FILMS TO BE PRODUCED IN NEW
MEXICO. --

A. No more than [~~one-half of one~~] two and one-half
percent of the market value of the severance tax permanent fund
may be invested in New Mexico film private equity funds or a
New Mexico film project under this section.

B. If an investment is made under this section, not

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1 more than seven million five hundred thousand dollars
2 (\$7,500,000) of the amount authorized for investment pursuant
3 to Subsection A of this section shall be invested in any one
4 New Mexico film private equity fund or any one New Mexico film
5 project.

6 C. The state investment officer shall make
7 investments pursuant to this section only upon approval of the
8 state investment council after a review by the private equity
9 investment advisory committee and the New Mexico film division
10 of the economic development department. The state investment
11 officer may make debt or equity investments pursuant to this
12 section only in New Mexico film projects or New Mexico film
13 private equity funds that invest only in film projects that:

14 (1) are filmed wholly or substantially in New
15 Mexico;

16 (2) have shown to the satisfaction of the New
17 Mexico film division that a distribution contract is in place
18 with a reputable distribution company;

19 (3) have agreed that, while filming in New
20 Mexico, a majority of the production crew will be New Mexico
21 residents;

22 (4) have posted a completion bond that has
23 been approved by the New Mexico film division; provided that a
24 completion bond shall not be required if the fund or project is
25 guaranteed pursuant to Paragraph (5) of this subsection; and

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1 (5) have obtained a full, unconditional and
2 irrevocable guarantee of repayment of the invested amount in
3 favor of the severance tax permanent fund:

4 (a) from an entity that has a credit
5 rating of not less than Baa or BBB by a national rating agency;

6 (b) from a substantial subsidiary of an
7 entity that has a credit rating of not less than Baa or BBB by
8 a national rating agency;

9 (c) by providing a full, unconditional
10 and irrevocable letter of credit from a United States
11 incorporated bank with a credit rating of not less than A by a
12 national rating agency; or

13 (d) from a substantial and solvent
14 entity as determined by the state investment council in
15 accordance with its standards and practices; or

16 (6) if not guaranteed pursuant to Paragraph
17 (5) of this subsection, have obtained no less than one-third of
18 the estimated total production costs from other sources as
19 approved by the state investment officer.

20 D. As used in this section:

21 (1) "committed capital" means the sum of the
22 fixed amounts of money that accredited investors have obligated
23 for investment in a New Mexico film private equity fund, which
24 fixed amounts may be invested in that fund in one or more
25 payments over time;

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[bracketed material] = delete

1 (2) "film project" means a single media or
2 multimedia program, including advertising messages, fixed on
3 film, videotape, computer disc, laser disc or other similar
4 delivery medium from which the program can be viewed or
5 reproduced and that is intended to be exhibited in theaters;
6 licensed for exhibition by individual television stations,
7 groups of stations, networks, cable television stations or
8 other means; or licensed for the home viewing market; and

9 (3) "New Mexico film private equity fund"
10 means any limited partnership, limited liability company or
11 corporation organized and operating in the United States that:

12 (a) has as its primary business activity
13 the investment of funds in return for equity in film projects
14 produced wholly or partly in New Mexico;

15 (b) holds out the prospects for capital
16 appreciation from such investments; and

17 (c) accepts investments only from
18 accredited investors as that term is defined in Section 2 of
19 the federal Securities Act of 1933, as amended, and rules
20 promulgated pursuant to that section."